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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97-056-10]

Mediterranean Fruit Fly; Quarantined Areas; Clarification

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rules; clarification.

SUMMARY: This document clarifies the status of amendments contained in two interim rules effective the same day. In an interim rule effective April 17, 1998, and published in the **Federal Register** on April 22, 1998 (63 FR 19797-19798, Docket No. 97-056-9), we amended the Mediterranean fruit fly regulations by removing the quarantined area in Hillsborough County, FL, from the list of quarantined areas. Also, in an interim rule effective April 17, 1998, and published in the **Federal Register** on April 23, 1998 (63 FR 20053-20054, Docket No. 98-046-1), we amended the Mediterranean fruit fly regulations by adding a portion of Dade County, FL, to the list of quarantined areas and restricting the interstate movement of regulated articles from the quarantined area.

DATES: Effective April 17, 1998, the only area quarantined for the Mediterranean fruit fly in the continental United States is a portion of Dade County, FL.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8247; or e-mail: mstefan@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1998, we published in the **Federal Register** (63 FR 19797-19798, Docket No. 97-056-9) an interim rule that amended the Mediterranean fruit fly (Medfly) regulations by removing the quarantined area in Hillsborough County, FL, from the list of quarantined areas. Also, on April 23, 1998, we published in the **Federal Register** (63 FR 20053-20054, Docket No. 98-046-1) another interim rule that amended the Medfly regulations by adding a portion of Dade County, FL, to the list of quarantined areas and restricting the interstate movement of regulated articles from the quarantined area. Both the dockets were signed and became effective on April 17, 1998.

In the interim rule that removed Hillsborough County, FL, from the list of quarantined areas, we inadvertently failed to delete the statement saying that, as a result of this action, there were no longer any areas in the continental United States quarantined because of Medfly. While this would have been true if no additional Medflies had been found, because of the finding of Medfly in Dade County, FL, that statement was incorrect at the time the docket was signed. The interim rule that added Dade County, FL, to the list of areas quarantined because of the Medfly quarantined a described area of Dade County, FL.

The purpose of this notice is to clarify our Medfly quarantine regulations. Effective April 17, 1998, the only area quarantined for the Medfly in the continental United States is a portion of Dade County, FL.

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 30th day of April 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98-12123 Filed 5-6-98; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97-100-2]

Pine Shoot Beetle; Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with one change, an interim rule that amended the pine shoot beetle regulations by adding 78 counties in Illinois, Indiana, Maryland, Michigan, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin to the list of quarantined areas. The interim rule was necessary to prevent the spread of the pine shoot beetle, a pest of pine products, into noninfested areas of the United States. This final rule makes one change to the map of regulated counties that appeared in the interim rule to add a county that mistakenly was not included on the map.

EFFECTIVE DATE: May 7, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Christine K. Markham, Regional Program Manager, PPQ, APHIS, 505 South Lenola Road, Suite 201, Moorestown, NJ, 08057-1549, (609) 753-5073; or Ms. Coanne O'Hern, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8717, E-mail: cohern@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective on December 3, 1997, and published in the **Federal Register** on December 9, 1997 (62 FR 64677-64680, Docket No. 97-100-1), we amended the pine shoot beetle regulations in 7 CFR part 301 by adding 78 counties in Illinois, Indiana, Maryland, Michigan, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin to the list of quarantined areas in § 301.50-3(c).

Comments on the interim rule were required to be received on or before February 9, 1998. We did not receive any comments.

We are making one change to the interim rule to correct an error. The

interim rule added Boone County, IL, to the list of quarantined areas in § 301.50-3(c). However, we mistakenly neglected to also add Boone County, IL, to the map of quarantined areas in § 301.50-3(d). We have corrected this error in this final rule.

Therefore, based on the rationale set forth in the interim rule and in this document, we are adopting the provisions of the interim rule as a final rule, with the change discussed in this document.

This final rule also affirms the information contained in the interim rule concerning Executive Orders 12866, 12372, and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

Effective Date

This document makes final an interim rule that amended the pine shoot beetle regulations by adding 78 counties in Illinois, Indiana, Maryland, Michigan, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin to the list of quarantined areas. This final rule makes one change to the map of regulated counties that appeared in the interim rule. We are adding to the map one county that was added to the list of quarantined areas but was mistakenly not included on the map. This is not a substantive change. Therefore, in accordance with the administrative procedure provisions in 5 U.S.C. 553, we are making this rule effective less than 30 days after publication in the **Federal Register**. Specifically, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 604, we have performed a Final Regulatory Flexibility Analysis, set forth below, regarding the economic impact of this rule on small entities. Based on the information we have, there is no basis to conclude that this rule will result in any significant economic impact on a substantial number of small entities.

Under the Plant Quarantine Act and the Federal Plant Pest Act (7 U.S.C.

150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167), the Secretary of Agriculture is authorized to regulate the interstate movement of articles to prevent the spread of injurious plant pests in the United States.

The pine shoot beetle (PSB) regulations impose restrictions on the interstate movement of certain regulated articles from quarantined areas in order to prevent the spread of PSB into noninfested areas of the United States. The interim rule amended these regulations by adding 78 counties in 9 States to the list of quarantined areas. This action was necessary to prevent the spread of PSB, a pest of pine products, into noninfested areas of the United States. In our Initial Regulatory Flexibility Analysis, we solicited comments on the potential effects of the interim rule on small entities. In particular, we sought data and other information to determine the number and kinds of small entities that may incur benefits or costs from implementation of the interim rule. We received no comments on the Initial Regulatory Flexibility Analysis contained in the interim rule.

Currently, there are approximately 1,046 nursery operations in the 78 newly regulated counties. Of those, approximately 717 are considered small entities. We have not determined the size of the remaining 329 nursery operations in the following 6 counties: Boone County, IL; Muskegon and Ottawa Counties, MI; Wayne County, NY; Allen County, OH; and Indiana County, PA. Small nurseries are defined as those entities with annual sales of less than \$150,000. Most of these nurseries, both large and small, specialize in production of deciduous landscape products, but some also produce rooted pine Christmas trees and some pine nursery stock. Most of the nurseries that produce rooted pine Christmas trees and pine nursery stock will not be notably affected by this rule, either because these commodities comprise a very minor share of their products or because they serve largely local populations.

Other Christmas tree producers and logging operations in the 78 newly regulated counties may also be affected by this rule. In the interim rule, we explained that we were unable to determine the number of these types of

small entities in the newly regulated counties, and invited comments to help us make that determination. However, as stated previously, we did not receive any comments.

Affected businesses can maintain markets outside the regulated areas by arranging for inspections and the issuance of certificates or limited permits, or by fumigating or cold treating the regulated articles. Inspection is provided at no cost during normal business hours. However, there may be imputed costs to the businesses in preparing for the inspections and possible marketing delays. Such costs and inconveniences may be more likely for producers of live pine nursery stock, since inspection is required of each live plant before it may be moved to a nonregulated area. For producers in these counties who already have their trees inspected for other pests, another inspection may be a relatively small burden, especially when compared to the societal benefits of minimizing the human-assisted movement of PSB.

The alternative to the interim rule was to make no changes in the regulations. After consideration, we rejected this alternative because the quarantine of the 78 counties listed in the interim rule is necessary to prevent the artificial spread of PSB.

This rule contains no reporting or recordkeeping requirements.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

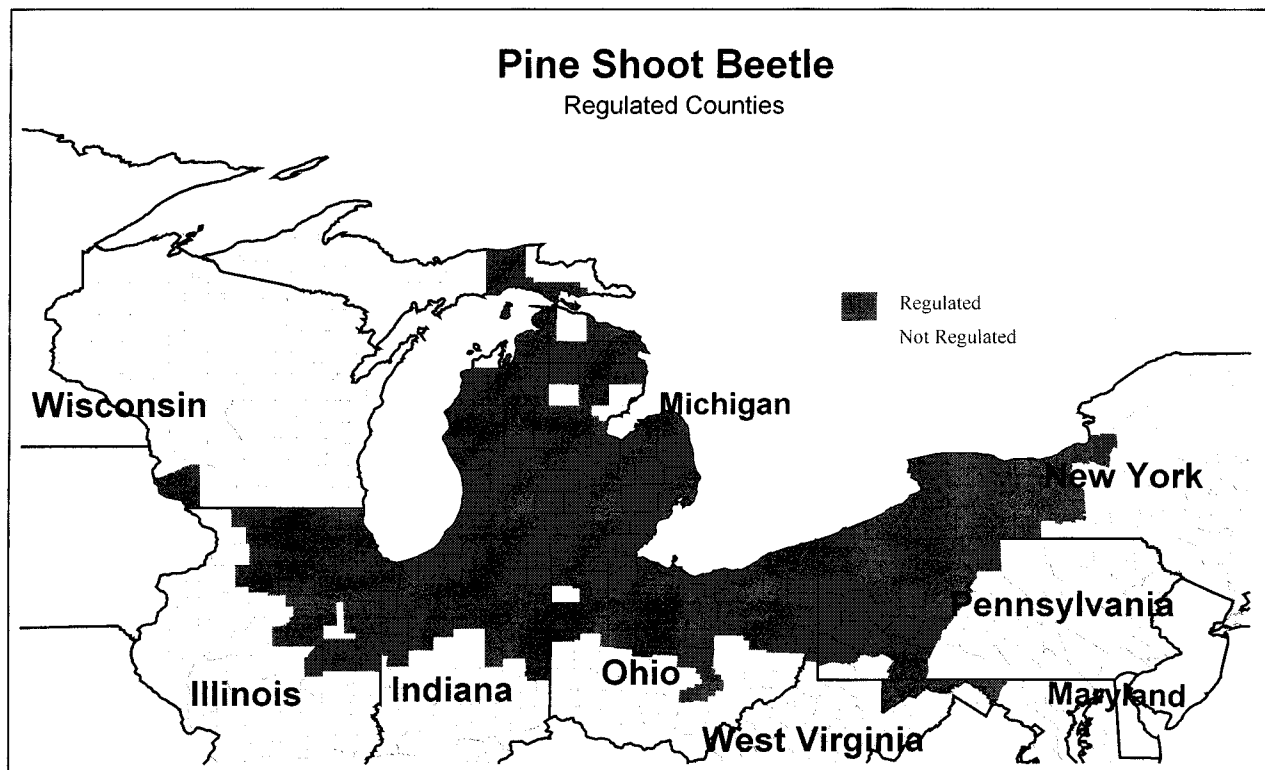
Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.50-3, paragraph (d) is amended by revising the map to read as follows:

§ 301.50-3 Quarantined areas.

* * * * *

(d) * * *



Done in Washington, DC, this 30th day of April 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98-12124 Filed 5-6-98; 8:45 am]

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